

REMARKS/ARGUMENTS

Claims 1-40 were in the application as filed. Claims 16-27 and 33 have been withdrawn pursuant to a requirement for restriction. Claims 1-13, 15, 28-32, and 34-40 stand rejected. Claim 14 stands objected to, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

In this paper, Applicants have canceled claims 1 and 8 without prejudice, and submitted new claims 41 and 42. Claims 2, 6, 9, and 25 have been amended to change their dependency.

Applicant believes the amendments made herein add no new matter. Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto. Reconsideration and reexamination of the application is respectfully requested in view of the amendments and the following remarks.

Claim Rejections - 35 U.S.C. §102(b)

Claims 1-13, 15, 28-32, and 34-40 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 2,219,626 to Johnson. The rejection is traversed.

Claims 1 and 8 have been cancelled without prejudice. Thus, the rejection is moot as to claims 1 and 8. Applicant requests the withdrawal of the rejection of claims 1 and 8.

New claim 41 is claim 14 rewritten in independent form, including the limitations of claims 1, 8-10, 12, and 13, which the Examiner has indicated would be allowable. Thus, Applicant requests the allowance of claim 41.

Claims 2-5 depend from new claim 41. Thus, claims 2-5 are allowable. Applicant requests the allowance of claims 2-5.

New claim 42 is allowable. New claim 42 calls for a vehicular door handle assembly for selectively opening a vehicle door. The door handle assembly comprises a primary actuator, a secondary actuator, and a latch. The primary actuator is adapted to be mounted to an exterior surface of a vehicle door. The primary actuator has a first user interaction portion for moving the primary actuator between a latched position and an opened position. The vehicle door is opened by a user by moving the user interaction portion of the primary actuator between the latched position adjacent the exterior surface and the opened position away from the exterior surface. The secondary actuator is operatively associated with the primary actuator.

The secondary actuator has a second user interaction portion for moving the secondary actuator between a secure position, wherein movement of the primary actuator from the latched position to the opened position is prevented, and a release position, wherein the primary actuator can move from the latched position to the opened position. The latch is associated with the secondary actuator for movement alongside the exterior surface from one of the secure position and the release position to the other of the secure position and the release position. The second user interaction portion is aligned with at least a portion of the first user interaction portion so that attempted movement of the primary actuator by the user out of the latched position first causes the latch to be moved from the secure position to the release position.

Johnson '626 discloses an interior vehicle door handle 10 which operates a door latch by rotating the handle 10 about a door latch shaft 12. The door shaft 12 extends from inside the door orthogonally through an interior panel of the door into registry with the handle 10. A pin 14 extending orthogonal to the interior panel is biased into engagement with a stop lug 16 fixed to the door to prevent rotation of the handle 10. A pin retracting member 18 is mounted to the handle 10 and pivotally connected to the pin 14 so that, when the handle 10 is gripped, the pin retracting member 18 is moved, which withdraws the pin 14 orthogonally away from the door and out of engagement with the stop lug 16. The handle 10 can then be rotated to open the door.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367; 231 USPQ 81 (Fed. Cir. 1986). To anticipate, a single reference must teach each and

every limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226; 9 USPQ2d 1913 (Fed. Cir. 1989).

The handle 10 disclosed in Johnson '626 is not adapted to be mounted to the exterior surface of a vehicle door. It is expressly adapted for interior use. *Col. 1, ln. 1-7, 47-52; col. 2, ln. 6-9*. The door disclosed in Johnson '626 is not opened by moving the handle 10, i.e. the user interaction portion of the primary actuator, between the latched position adjacent the exterior surface and the opened position away from the exterior surface. The handle 10 is rotated in a plane parallel to the interior panel, and is not moved away from the interior panel. Finally, the pin 14, i.e. the latch, does not move alongside the exterior surface of the door. It moves orthogonal to the interior panel, not alongside it.

Each and every element of new claim 42 is not found in Johnson '626 in as complete detail as is contained in new claim 42. For these reasons, new claim 42 is patentable over Johnson '626.

Claims 6, 7, 9-13, and 15 depend, directly or indirectly, from new claim 42 and are for the same reasons patentable over Johnson '626. Applicant requests withdrawal of the rejection of claims 6, 7, 9-13, and 15, and the allowance of claims 6, 7, 9-13, 15, and 42.

Claim 28 calls for a vehicular door handle assembly for selectively opening a vehicular door. The door handle assembly comprises a primary actuator and a secondary actuator. The primary actuator is adapted to be mounted to a vehicle door and movable between a latched position and an opened position. The vehicle door is opened by a user by moving the primary actuator between the latched position and the opened position. The secondary actuator is operatively associated with the primary actuator and movable between a secure position, wherein movement of the primary actuator from the latched position to the opened position is prevented, and a release position, wherein the primary actuator can move from the latched position to the opened position. The primary actuator and the secondary actuator have a common actuation path

so that attempted movement of the primary actuator out of the latched position first causes the secondary actuator to be moved from the secure position to the release position.

Claim 28 is patentable over Johnson '626 because the handle and pin retracting member of Johnson '626 do not have a common actuation path. The actuation path of the handle is rotational in a first plane which is perpendicular to the door latch shaft. In other words, the actuation path of the handle is arcuate or angular about the door latch shaft. The pin retracting member is actuated by pulling the pin retracting member into the handle. The actuation path is arcuate about the pivot point 20, 21. This actuation path lies in a second plane which is perpendicular to the first plane. Thus, the handle and the pin retracting member do not have a common actuation path as required by claim 28.

Furthermore, because the handle and the pin retracting member do not have common actuation path, attempted movement of the handle does not first cause the pin retracting member to be moved from a secure position to a release position. A person can attempt to move the handle without necessarily activating the pin retracting member simply by pushing down on the handle in an attempt to rotate the handle about the door latch shaft. Furthermore, movement of the handle does not "cause" movement of the pin retracting member. Thus, attempted movement of the handle out of the latched position does not first cause the secondary actuator to be moved from the secure position to the release position as required by claim 28.

In arguing that Johnson '626 discloses all the elements of claim 28, the Examiner asserts that "the primary actuator and the secondary actuator have a common or similar actuation path so that attempted movement of the primary actuator out of the latched position first causes the secondary actuator to be moved from the secure position to the release position." However, the examiner offers no evidence in support of this assertion. The Examiner fails to describe the actuation paths, analyze the orientation of the actuation paths, or identify any structural elements in Johnson '626 defining or controlling the actuation paths.

"Broad conclusory statements standing alone are not 'evidence'." *In Re Werner Kotzab*, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000). The Examiner has offered nothing more than broad conclusory statements in support of the conclusion that Johnson '626 discloses a primary actuator and a secondary actuator having a common or similar actuation path. This is wholly inadequate to support a finding of anticipation.

Each and every element of claim 28 is not found in Johnson '626 in as complete detail as is contained in claim 28. For these reasons, claim 28 is patentable over Johnson '626. Claims 29-32 and 34 depend, directly or indirectly, from claim 28 and are, for the same reasons, patentable. Applicant requests the withdrawal of the rejection, and the allowance of claims 28-32 and 34.

Claim 35 calls for a vehicular door handle assembly for selectively opening a vehicular door. The door handle assembly comprises an actuator and a latch. The actuator is adapted to be mounted to a vehicle door and is movable through an actuation path to an opened position. The vehicle door is opened by a user by moving the actuator to the opened position. The latch is operatively associated with the actuator for selectively preventing movement of the actuator to the opened position. The actuation path comprises a first portion and a second portion. Movement of the actuator through the first portion deactivates the latch so that the actuator can move through the second portion to the opened position. The first portion and the second portion of the actuation path are serially aligned and substantially indistinguishable to a user during attempted movement of the actuator to the opened position.

Claim 35 is patentable over Johnson '626. As discussed above, the handle disclosed in Johnson 626 moves through a first actuation path which is arcuate about the door latch shaft, and a second actuation path which is arcuate about the pivot point 20, 21. In other words, the actuation path can be viewed as comprising a first portion which is arcuate about the pivot .20, 21, and a second portion which is arcuate about the door latch shaft. However, the first portion and the second portion are not aligned, serially or otherwise. As discussed above, the two actuation paths lie in planes which are perpendicular to each

other. The first actuation path involves pulling on the handle to depress the pivot actuation member. The second actuation path involves rotating the handle about the door latch shaft. Thus the actuation paths are not serially aligned. Furthermore, the actuation paths are not substantially indistinguishable to a user during attempted movement of the handle to the opened position. They are clearly separate and distinguishable.

In arguing that Johnson '626 discloses all the elements of claim 35, the Examiner asserts that "the first portion and the second portion of the actuation path are serially aligned and substantially indistinguishable to a user during attempted movement of the actuator to the opened position." However, the examiner offers no evidence in support of this assertion. The Examiner fails to describe the actuation paths, analyze the orientation of the actuation paths, or identify any structural elements in Johnson '626 defining or controlling the actuation paths.

"Broad conclusory statements standing alone are not 'evidence'." *In Re Werner Kotzab*, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000). The Examiner has offered nothing more than broad conclusory statements in support of the conclusion that Johnson '626 discloses serially aligned actuation paths which are substantially indistinguishable to a user. This is wholly inadequate to support a finding of anticipation.

Each and every element of claim 35 is not found in Johnson '626 in as complete detail as is contained in claim 35. For these reasons, claim 35 is patentable over Johnson '626. Claims 36-40 depend, directly or indirectly, from claim 35 and are, for the same reasons, patentable. Applicant requests the withdrawal of the rejection, and the allowance of claims 35-40.

CONCLUSION

For the reasons discussed above, all claims remaining in the application are allowable over the prior art. Early notification of allowability is respectfully requested.

If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,

JERRY CUMMINS ET AL.

Dated: August 10, 2006

By: /G Thomas Williams/

Michael F. Kelly, Reg. No. 50,859
G. Thomas Williams, Reg. No. 42,228
McGarry Bair PC
171 Monroe Avenue, N.W., Suite 600
Grand Rapids, Michigan 49503
(616) 742-3500